

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DERRICK L. BRADDOCK,

Petitioner,

v.

CASE NO. 07-CV-11663  
HONORABLE LAWRENCE P. ZATKOFF

JAN E. TROMBLEY,

Respondent.

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**ORDER DENYING PETITIONER'S MOTIONS TO PROCEED IN FORMA PAUPERIS  
AND FOR SUMMARY JUDGMENT AND ORDERING RESPONDENT TO FILE AN  
ANSWER TO THE AMENDED PETITION FOR WRIT OF HABEAS CORPUS**

This matter is before the Court on Petitioner's motions to proceed *in forma pauperis* and for summary judgment. The Court previously granted Petitioner permission to file an amended petition for writ of habeas corpus, which he did on January 31, 2008.

In his first motion, Petitioner seeks to proceed *in forma pauperis* because he states that the Clerk's Office has asked him to submit \$27.50 for service fees and copies. The Court, however, has not issued any such orders in this case. Petitioner has paid the \$5.00 filing fee and there are no motion fees in federal court. Accordingly, the Court **DENIES** Petitioner's motion to proceed *in forma pauperis* as unnecessary.

In his second motion, Petitioner seeks summary judgment due to Respondent's failure to timely file an answer to his amended petition. In the Court's January 7, 2008 order addressing several of Petitioner's motions, the Court set deadlines for the submission of supplemental pleadings giving Respondent until **July 1, 2008** to answer the amended petition. Respondent thus has several weeks in which to file an answer to the amended petition. Additionally, the Court notes that a

default judgment is unavailable in a habeas corpus proceeding under 28 U.S.C. § 2254 on the ground that state officials failed to file a timely response to the petition. *See Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970). Accordingly, the Court **DENIES** Petitioner's motion for summary judgment.

**IT IS SO ORDERED.**

s/Lawrence P. Zatkoff  
LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: May 29, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on May 29, 2008.

s/Marie E. Verlinde  
Case Manager  
(810) 984-3290